



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2014-0259]

RIN 1625-AA00

Safety Zone, Fireworks Display, Lake Michigan; Winnetka, IL

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

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SUMMARY: The Coast Guard proposes to establish a safety zone in Lake Michigan, Winnetka, Illinois. This proposed safety zone is necessary to protect the surrounding public and vessels from the hazards associated with a fireworks display. This safety zone is intended to restrict vessels from a portion of Lake Michigan due to hazards associated with a fireworks display.

DATES: Comments and related material must be received by the Coast Guard on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may submit comments identified by docket number USCG-2014-0259 using any one of the following methods:

(1) Federal eRulemaking Portal:

<http://www.regulations.gov>.

(2) Fax: 202-493-2251.

(3) Mail: Docket Management Facility (M-30), U.S.  
Department of Transportation, West Building Ground Floor, Room  
W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590-0001.

(4) Delivery: Same as mail address above, between 9  
a.m. and 5 p.m., Monday through Friday, except Federal  
holidays. The telephone number is 202-366-9329.

See the "Public Participation and Request for Comments"  
portion of the SUPPLEMENTARY INFORMATION section below for  
instructions on submitting comments. To avoid duplication,  
please use only one of these four methods.

FOR FURTHER INFORMATION CONTACT: If you have questions on  
this rule, call or e-mail Petty Officer Joseph McCollum, U.S.  
Coast Guard Sector Lake Michigan; telephone 414-747-7148, e-mail  
Joseph.P.McCollum@uscg.mil. If you have questions on viewing  
or submitting material to the docket, call Cheryl Collins,  
Program Manager, Docket Operations, telephone 1-800-647-5527.

#### SUPPLEMENTARY INFORMATION:

##### Table of Acronyms

DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of Proposed Rulemaking

#### A. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by  
submitting comments and related materials. All comments

received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided.

#### 1. Submitting comments

If you submit a comment, please include the docket number for this rulemaking (USCG-2014-0259), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online at <http://www.regulations.gov>, or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, type the docket number (USCG-2014-0259) in the "SEARCH" box and click "SEARCH." Click on "Submit a Comment" on the line associated with this notice of proposed rulemaking.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

## 2. Viewing comments and documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number USCG-2014-0259 in the "SEARCH" box and click "Search." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

## 3. Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual

submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the Federal Register (73 FR 3316).

#### 4. Public meeting

We do not now plan to hold a public meeting. You may submit a request for one using one of the four methods specified under ADDRESSES. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the Federal Register.

#### B. Regulatory History and Information

On July 26, 2013 the Coast Guard published a Temporary Final Rule entitled Safety Zones; Sherman Private Party Fireworks, Lake Michigan, Winnetka, IL and made it available for public comment (78 FR 45059). No public meeting was requested, and none was held.

#### C. Basis and Purpose

The legal basis for this proposed rule is the Coast Guard's authority to establish safety zones: 33 U.S.C. 1231; 33 CFR 1.05-1, 160.5; Department of Homeland Security Delegation No. 0170.1.

On August 16, 2014 a private party fireworks display is expected to take place on Lake Michigan, Winnetka, IL, from a barge located at approximate position 42°06'24.19"N, 087°43'7.92"W (NAD 83). The Captain of the Port, Lake Michigan, has determined that an aerial firework display presents a significant risk to public safety and property. Such hazards include falling and flaming debris.

#### D. Discussion of Proposed Rule

The Captain of the Port, Lake Michigan, has determined that a safety zone is necessary to mitigate the aforementioned safety risks. Thus, this proposed rulemaking would establish a safety zone on the waters of Lake Michigan, near Winnetka, IL, within an 840 foot radius from a barge located at approximate position 42°06'24.19"N, 087°43'7.92"W (NAD 83).

This proposed safety zone would be effective and enforced from 9:15 p.m. until 10 p.m. on August 16, 2014.

The Captain of the Port Lake Michigan will notify the public that the zone in this proposal is or will be enforced by all appropriate means to the affected segments of the public. Such means of notification may also include, but are not limited to Broadcast Notice to Mariners or Local Notice to Mariners.

All persons and vessels must comply with the instructions of the Captain of the Port Lake Michigan, or his or her

designated on-scene representative. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port, Lake Michigan, or his or her designated on-scene representative. The Captain of the Port, Lake Michigan, or his or her designated on-scene representative may be contacted via VHF Channel 16.

#### E. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes and executive orders.

##### 1. Regulatory Planning and Review

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security (DHS). We conclude that this proposed rule is not a significant regulatory action because we anticipate that it will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any

novel legal or policy issues. Overall, we expect the economic impact of this proposed rule to be minimal and that a full Regulatory Evaluation is unnecessary.

## 2. Impact on Small Entities

Under The Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. This proposed rule will affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit or anchor within the waters of Lake Michigan near Winnetka, IL, on August 16, 2014.

This proposed safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: This proposed rule will be enforced for a short duration of 45 minutes. The location of this safety zone allows traffic to pass safely around the zone and



vessels will be allowed to pass through the zone with the permission of the Captain of the Port. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see ADDRESSES) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

### 3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Petty Officer Joseph McCollum, Prevention Department, Coast Guard Sector Lake Michigan, Milwaukee, WI at (414)747-7148. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

### 4. Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44

U.S.C. 3501-3520.) .

#### 5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism.

#### 6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "For Further Information Contact" section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

#### 7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not

result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### 8. Taking of Private Property

This proposed rule would not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### 9. Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### 10. Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

#### 11. Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the

relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

#### 12. Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

#### 13. Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or

operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### 14. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have made a determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. An environmental analysis checklist supporting this determination is available in the docket where indicated under ADDRESSES. This proposed rule involves the establishment of a safety zone and is therefore categorically excluded under figure 2-1, paragraph 34(g) of the Instruction. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

#### List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Reporting and

record keeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165- REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Add § 165.T09-0259 to read as follows:

§ 165.T09-0259 Safety Zone, Fireworks Display, Lake Michigan; Winnetka, IL.

(a) Location. All waters of Lake Michigan, near Winnetka, IL, within an 840 foot radius from a barge located at approximate position 42°06'24.19"N, 087°43'7.92"W (NAD 83).

(b) Effective period. This section will be effective from 9:15 p.m. until 10 p.m. on August 16, 2014.

(c) Regulations. (1) In accordance with the general regulations in § 165.23, entry into, transiting, or

anchoring in this safety zone is prohibited unless authorized by the Captain of the Port, Lake Michigan, or his or her designated on-scene representative.

(2) The safety zone described in paragraph (a) of this section is closed to all vessel traffic except as permitted by the Captain of the Port Lake Michigan or his or her designated on-scene representative.

(3) The "on-scene representative" of the Captain of the Port Lake Michigan is any Coast Guard commissioned, warrant, or petty officer who has been designated by the Captain of the Port Lake Michigan to act on his or her behalf.

(4) Vessel operators desiring to enter or operate within the safety zone must contact the Captain of the Port Lake Michigan or his or her designated on-scene representative to obtain permission to do so. The Captain of the Port Lake Michigan or his or her designated on-scene representative may be contacted via VHF Channel 16.

Dated: April 30, 2014

M.W. SIBLEY  
Captain, U. S. Coast Guard  
Captain of the Port, Lake Michigan

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Date: 05/14/2014]